

EXHIBIT 4

Issa, Ashraf Abu

6/6/2008

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ROOTS READY MADE GARMENTS CO.
W.L.L.,

Plaintiff,

vs.

No. C 07-03363 CRB

THE GAP, INC., a/k/a, GAP, INC.,
GAP INTERNATIONAL SALES, INC.,
BANANA REPUBLIC, LLC, AND OLD
NAVY, LLC,

Defendants.

CERTIFIED COPY

DEPOSITION OF ROOTS READY MADE GARMENTS CO.

DEPONENT: ASHRAF ABU ISSA

Friday, June 6, 2008

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Issa, Ashraf Abu

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ROOTS READY MADE GARMENTS CO.
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THE GAP, INC., a/k/a, GAP, INC.,
GAP INTERNATIONAL SALES, INC.,
BANANA REPUBLIC, LLC, AND OLD
NAVY, LLC,

Defendants.

Deposition of ASHRAF ABU ISSA, taken on
behalf of the Defendant, at KEKER & VAN NEST LLP,
710 Sansome Street, San Francisco, California,
beginning at 9:36 A.M. on Friday, June 6, 2008,
before JANIS L. JENNINGS, Certified Shorthand
Reporter CSR No. 3942, CRP, CLR

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1 A. Yes.

2 Q. And Roots' lawyers also represented you at
3 the deposition that you gave in the Gabana case;
4 correct?

5 A. Yes.

6 MS. DURIE: Let me have marked as the next
7 exhibit in order a copy of the transcript of
8 Mr. Abu Issa's deposition from the Gabana
9 litigation.

10 (Whereupon, Exhibit 43 was marked for
11 identification.)

12 DEPOSITION REPORTER: I am numbering this
13 No. 43.

14 (Ms. Veeder enters deposition room.)

15 BY MS. DURIE:

16 Q. Mr. Abu Issa, what's been marked as
17 Exhibit 43 is the transcript of the deposition that
18 you gave in the Gabana litigation. And I have
19 questions for you about certain specific portions of
20 your testimony. You'll see that each page contains
21 four pages from the transcript. I'm going to refer
22 to the page numbers that appear in the upper
23 right-hand portion of each of the --

24 A. Okay.

25 Q. -- small pages. And I'd like to start by

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1 directing your attention to page 17 of your
2 testimony --

3 A. Uh-huh.

4 Q. -- from line 5 to line 13. Can you please
5 read that to yourself.

6 A. From line 5 to where?

7 Q. To line 13.

8 A. 13. Yes.

9 Q. Was that testimony truthful?

10 MR. HANEY: Okay. I just want to point
11 out that line 14 is an objection from Miss Durie.

12 DEPOSITION REPORTER: I'm sorry?

13 MR. HANEY: There's an objection to that
14 question from Miss Durie. Actually, strike that.
15 Strike that.

16 Go ahead.

17 BY MS. DURIE:

18 Q. Mr. Abu Issa, was that testimony truthful?

19 A. Yes.

20 Q. I'd like you to turn now to page 26 and
21 ask you to read to yourself lines 5 through 12.

22 A. Yes.

23 Q. Was that testimony truthful?

24 A. Yes.

25 Q. Please turn to page 34 and read from

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company with Gabana. And if this had went through, yes, then this -- you know, this was the condition that we would pay -- we would get \$8.5 million from the bank and finance the new venture between Gabana and Roots. But since this did not happen, then we did not get the full amount.

BY MS. DURIE:

Q. I'd like you to turn in the pile of documents that you have in front of you to what is marked as Exhibit 7.

Actually, hang on. Wait, wait. I take it back. It's the wrong one. Flip through to what's been marked as Exhibit 10.

A. 10?

Q. Yeah. Do you recognize what's been marked as Exhibit 10?

A. Yes.

Q. If you turn to the third page of Exhibit 10, under Roots Ready Made Garments Company there is a signature. Do you see that?

A. Yes.

Q. Did you sign it?

A. Yes.

Q. And who signed this agreement for Gabana Gulf Distribution?

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1 legally enforceable agreement?

2 A. No.

3 Q. What was your understanding as to the
4 enforceability of Exhibit 10?

5 A. It's just a letter of understanding.
6 That's what it's titled.

7 Q. Okay. In your view, are letters of
8 understanding not legally enforceable?

9 MR. HANEY: Objection. Calls for a legal
10 conclusion.

11 THE WITNESS: No. To me -- sorry.

12 MR. HANEY: Go ahead.

13 THE WITNESS: To me, it's like minutes of
14 meetings.

15 BY MS. DURIE:

16 Q. Do you typically include in minutes of
17 meetings that they will be governed by the law of a
18 particular country?

19 A. I'm not particularly sure if this can be
20 done or not. I'm not a legal person, but why not?

21 Q. And when it says the parties have signed
22 this agreement and two original copies on May 12th,
23 2003, and then you executed it, what did you think
24 was the purpose of signing this document?

25 A. The purpose of signing this document was

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1 to reorganize the relationship we had with Gabana.

2 Q. But if this was just like the minutes of a
3 meeting, why would you sign it?

4 A. In our part of the world, it's common to
5 sign minutes of meetings to say that you agree on
6 them.

7 Q. When you say "you agree on them," what do
8 you mean?

9 A. You agree that this was discussed.

10 Q. So at the top of page 2 where it says,
11 "Now, therefore, the parties agree as follows," in
12 your view, that didn't actually reflect something
13 the parties had agreed to; is that right?

14 A. Say it again.

15 Q. Sure. At the top of page 2 it says, "Now
16 therefore, the parties agree as follows."

17 Is it your testimony that that's not
18 something you thought the parties had actually
19 agreed to?

20 MR. HANEY: Objection as to form.

21 THE WITNESS: No. Everything -- no. It
22 was discussed and agreed on, yes.

23 BY MS. DURIE:

24 Q. It was in fact agreed that these things
25 would happen; right?

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1 MR. HANEY: Objection as to form.

2 THE WITNESS: Yes, in total.

3 BY MS. DURIE:

4 Q. And the parties signed this document in
5 order to reflect that agreement that they had
6 entered into; right?

7 A. Yes.

8 Q. And the parties included a choice of law
9 provision so that if there were any disputes about
10 that agreement, there would be a mechanism for
11 resolving those disputes; right?

12 A. Yes.

13 Q. Now, if you turn to the first page of
14 Exhibit 10, it says, "Gabana has been offered by Gap
15 Inc. to enter into a new distribution agreement for
16 ISP."

17 Do you see that?

18 A. Yes.

19 Q. Why did Exhibit 10 state that Gabana and
20 not Roots had been offered to enter into a new
21 distribution agreement?

22 A. Because officially, that's what happened.

23 Q. If you turn to the second page, at the top
24 it says, "Gabana and Roots will negotiate and sign
25 in good faith two new distribution agreements, being

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1 in connection with those two distribution agreements
2 is that they would go from Gap to Gabana to Roots;
3 right?

4 A. Yes.

5 Q. Okay. Now, it's your testimony that as of
6 May 12th, 2003, Roots already had a contract with
7 Gap for the distribution of ISP merchandise; is that
8 right?

9 A. Yes.

10 Q. Okay. If Roots could get the ISP
11 merchandise directly from Gap, why did it need to
12 enter into an agreement with Gabana?

13 MR. HANEY: Objection as to foundation.

14 THE WITNESS: That's what Gap wanted from
15 us is to go through one European entity to be able
16 to conduct this business.

17 BY MS. DURIE:

18 Q. So Roots' agreement with Gap required the
19 execution of a contract between Gap and Gabana;
20 right?

21 MR. HANEY: Objection as to form and calls
22 for a legal conclusion.

23 THE WITNESS: Say it again.

24 BY MS. DURIE:

25 Q. Sure. Roots' understanding with Gap

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1 required the execution of a contract between Gap and
2 Gabana; right?

3 A. Yes.

4 Q. Okay. And it then also required the
5 execution of a contract between Gabana and Roots;
6 right?

7 A. Yes.

8 Q. And the written contract that was entered
9 into between Gap and Gabana was in furtherance of
10 the understanding that Roots had based on its direct
11 conversations with Gap; right?

12 MR. HANEY: Objection to form.

13 THE WITNESS: Can you repeat that again,
14 please.

15 BY MS. DURIE:

16 Q. Sure. The written contract that Gap
17 entered into with Gabana was in furtherance of the
18 understanding that Roots had based on its
19 discussions directly with Gap; right?

20 MR. HANEY: Objection as to form.

21 THE WITNESS: Yes.

22 BY MS. DURIE:

23 Q. Did anyone from Gap ever tell you that it
24 would not be necessary for Gap and Gabana to enter
25 into a written agreement?

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1 A. No.

2 Q. Can you turn back to your prior deposition
3 testimony, page 91. Actually -- I'm sorry --
4 page 89, and read to yourself from line 6 to
5 line 24.

6 A. From 6 to when?

7 Q. 24.

8 A. 24. Yes.

9 Q. Was that testimony truthful?

10 A. Yes.

11 Q. Did you ask to participate in the
12 negotiation between Gap and Gabana of the May 2003
13 contracts on issues other than exclusivity and
14 advertising?

15 A. Yes.

16 Q. To whom did you make that request?

17 A. To Francois.

18 Q. What did Mr. Larsen tell you?

19 A. He would -- like everything else, that he
20 would convey my request or my -- yeah, my request to
21 Gap.

22 Q. So you relied on Mr. Larsen to convey
23 information from you to Gap?

24 A. Yes. My participation was not direct. It
25 was indirect.

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1 Q. So the negotiation of the contract between
2 Gap and Gabana took place between Gap and
3 Mr. Larsen; is that right?

4 A. Yes.

5 Q. And you conveyed to Mr. Larsen your
6 concerns with respect to that negotiation; is that
7 right?

8 A. Yes.

9 Q. And then you relied on him to pass them on
10 to Gap; is that right?

11 A. Yes.

12 Q. And was he acting on your behalf in
13 passing that information on to Gap?

14 MR. HANEY: Objection as to form and calls
15 for a legal conclusion.

16 THE WITNESS: I am not sure if he did act
17 the way I wanted him to because the outcome is not
18 according to what we wanted.

19 BY MS. DURIE:

20 Q. Okay. But regardless of whether he did
21 what you wanted, you authorized him to convey
22 information from you to Gap; right?

23 MR. HANEY: Objection as to form and calls
24 for a legal conclusion.

25 THE WITNESS: It was not really an

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1 authorization. It was the only way that Gap wanted
2 it to be.

3 BY MS. DURIE:

4 Q. Did you ask to participate personally in
5 the negotiations of the contract between Gap and
6 Gabana?

7 A. No.

8 Q. Why not?

9 A. I knew from Gap that they wanted only one
10 point of contact.

11 Q. And you knew from Gap that the point of
12 contact that they wanted was Mr. Larsen; right?

13 A. Not necessarily. They just wanted one
14 person.

15 Q. Okay. And you agreed that Mr. Larsen
16 would be that one person; correct?

17 A. Yes.

18 MR. HANEY: I need to use the facility.

19 MS. DURIE: Sure. We can take a break.

20 THE VIDEOGRAPHER: Off the record. The
21 time is 10:22 a.m.

22 (Off the record.)

23 THE VIDEOGRAPHER: We are back on the
24 record. The time is 10:34 a.m.

25 BY MS. DURIE:

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1 Q. Turn now, please, to page 98. And I'd
2 like to direct your attention to page 98, beginning
3 at line 10, through 99, ending at line 13.

4 A. Say it again.

5 Q. Page 98, line 10 through page 99, line 13.

6 A. Yes.

7 Q. That was truthful?

8 A. Yes.

9 Q. Turn to page 152, please, and read from
10 line 9 to line 23.

11 A. From which line?

12 Q. 9 to 23.

13 A. Okay.

14 Q. Was that truthful?

15 A. Yes. With a clarification. It might be,
16 you know, in line number 13, I think I was referring
17 when first started negotiating this contract. I
18 think I meant the contract between us and Gabana.

19 Q. Right. So you learned from the time that
20 Roots first started negotiating its contract with
21 Gabana that Gabana's contract with Gap had a
22 90-day-without-cause termination provision?

23 A. Yes.

24 Q. Has Roots made any claim against Gabana
25 with respect to any Gap products?

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1 A. Yes.

2 Q. What was the nature of that claim?

3 A. Just normal business, you know, claims.

4 But the one I remember was when we received the
5 1.7 million pieces, there were a lot of shortages
6 and a lot of damages and a lot of tagged products,
7 you know, tagged products. So this is one of the
8 claims, for example. But every time we had a
9 problem with the shipping, shortages, things like
10 this, yes.

11 Q. And in each of those instances, Roots made
12 a claim against Gabana; right?

13 A. Against Gap through Gabana.

14 Q. But the claim was sent to Gabana; right?

15 A. Yes.

16 Q. Has Gabana ever resolved that claim?

17 A. I knew of some of the discussions between
18 Gabana and Gap. So I knew that Gap did not resolve
19 them, so Gabana could not.

20 Q. Well, has Gabana resolved that claim to
21 Roots' satisfaction?

22 A. It was not their job to resolve it. It
23 was Gap's job to resolve it.

24 MS. DURIE: Let me have marked as the next
25 exhibit RRMG00008189 to 90.

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1 Q. Were all of those telephone conversations?

2 A. Yes.

3 Q. Did you meet with Mr. Bell in person prior
4 to the execution of the 2003 ISP agreement?

5 A. No.

6 Q. When was the first time that you spoke
7 with Mr. Bell?

8 A. I don't remember the date, but it was when
9 they offered the 1.7 million pieces against the ISP
10 program.

11 Q. Were you the only person on the phone
12 other than Mr. Bell, or were there other people on
13 the phone as well?

14 A. In some discussions there was Sheikh
15 Faisal and Francois on the phone, too.

16 Q. Can you separate out who was present for
17 each of the different telephone conversations?

18 A. Of course, not each one, but I can tell
19 you from what I remember.

20 The initial contact when we first -- when
21 we were first offered the 1.7 million pieces, he was
22 put on a speaker phone, and there were Sheikh Faisal
23 and Francois Larsen present.

24 And after that there was discussion about
25 the financial transaction, and most of the time it

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1 was just me and Mr. Bell.

2 Q. So the discussion that took place on the
3 speaker phone when Sheikh Faisal and Francois Larsen
4 were present, that was the conversation that took
5 place where you were in Doha, Qatar; is that right?

6 A. Yes.

7 Q. And can you place that telephone call in
8 time?

9 A. "Time" means --

10 Q. Time.

11 A. -- date?

12 Q. When.

13 A. Date?

14 Q. Well, what information can you provide to
15 try to figure out when that telephone call took
16 place?

17 A. I was in my office and it was at
18 nighttime. I don't remember the date exactly.

19 Q. Okay. The telephone call took place
20 before Gap and Gabana entered into the written
21 contract; right?

22 A. Yes.

23 Q. What do you recall being discussed during
24 that telephone call?

25 A. A discussion about the 1.7 million pieces,

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1 the condition and the age of these items, plus what
2 exactly we would get in return in terms of ISP
3 program and what countries are covered with that
4 agreement.

5 Q. Okay. When you say "what exactly we would
6 get in return" with respect to the ISP program, do
7 you remember any more details about what was
8 discussed on that subject?

9 A. Yes. I remember the details of the
10 countries that we were allowed to sell ISP and
11 details of -- maybe the way it's done. Do we come
12 to San Francisco to place our orders or -- the
13 mechanism of that.

14 Q. Do you remember any other details that
15 were discussed during that conversation?

16 A. No.

17 Q. How long did that conversation last?

18 A. I can't remember exactly, but it's
19 probably, like, between half an hour to an hour.

20 Q. And the only person from Gap who was on
21 that call was Jim Bell; right?

22 A. Yes.

23 Q. And you understood that Mr. Bell was
24 responsible for excess inventory; right?

25 MR. HANEY: At that point in time?

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1 A. Yes.

2 Q. Are you now changing that testimony?

3 MR. HANEY: Objection. Lacks foundation.

4 THE WITNESS: I don't see the connection.

5 You said 98 and 99?

6 Okay. I'm reading 99. Okay. 98, 99.

7 Okay.

8 Yes. At the time of the discussion
9 regarding the 1.7 million pieces, I have no idea who
10 is who. I had not met anybody and just talked to
11 Mr. Bell on the phone. When I went to San Francisco
12 and I met people in person, then I got all their
13 business cards. So on their business cards, it said
14 all their titles.

15 BY MS. DURIE:

16 Q. Okay. Are there any other details that
17 you can remember of the conversation with Mr. Bell
18 that took place on the speaker phone with Sheikh
19 Faisal and Francois Larsen?

20 MR. HANEY: You want him to testify to
21 everything that he remembers being said?

22 BY MS. DURIE:

23 Q. Everything you can remember that was said
24 during that call.

25 MR. HANEY: Just start from the beginning

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1 and tell her everything you remember from that call.

2 THE WITNESS: I remember Francois came to
3 us first saying that, "Gap has a proposal for you."
4 And the proposal was if you buy the 1.7 million
5 pieces, then you get some ISP -- the ISP program for
6 the Arabic-speaking countries.

7 Then I said, "Okay."

8 And he said, "I would like you to speak
9 to, you know, Jim directly and understand from him
10 exactly what is the deal."

11 And so we got on the phone. It was the
12 first time with Jim. And Jim explained that he has
13 this merchandise of 1.7 million pieces laying in
14 Dubai and that he wants us to buy them for a price.
15 I remember it was over \$4, maybe 5. I can't
16 remember. He proposed first a price, and then we
17 negotiated that later. And he said that these goods
18 are recent goods. They're not very old; two or
19 three seasons behind. And he said that, you know,
20 he would like to do this transaction very quickly
21 because of financial issue -- because of financial
22 needs, that he needed to get this out of his books
23 quickly. So his main concern in this conversation
24 was, "How quick can you do it?"

25 I said, "Okay. What do I get in return,

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1 you know, ISP countries and everything?"

2 And he told me all the Arabic-speaking
3 countries are included, plus maybe we can add some
4 other countries like Switzerland, Israel, Turkey.
5 And he said, you know, we had to see about these
6 countries, but for sure the Arabic-speaking
7 countries were included. And he said that he wants
8 me to -- I can't remember if it's this conversation
9 or another one, but he wants me to show some
10 commitment towards buying this.

11 BY MS. DURIE:

12 Q. Is there anything else that you can
13 remember about that conversation?

14 A. No.

15 Q. When Mr. Bell asked you "to show some
16 commitment," what did you understand that to mean?

17 A. Either opening LC, letter of credit,
18 quickly or sending a down payment.

19 Q. Was a final price for the 1.7 million
20 units of excess inventory agreed to during this
21 conversation?

22 A. Not the final price, no.

23 Q. At the conclusion of this telephone
24 conversation, did you think that you had a legally
25 enforceable contract with Gap regarding ISP

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1 distribution rights?

2 A. Not at the end of it until I -- no, not
3 the end of it.

4 Q. Now, you've said that you had subsequent
5 telephone conversations with Mr. Bell prior to the
6 execution of the written contract between Gap and
7 Gabana; is that right?

8 A. Yes.

9 Q. How many conversations did you have?

10 A. I said maybe three or four, five.

11 Q. Okay. Can you separate out those
12 conversations in your mind --

13 A. No.

14 Q. -- or do they all run together?

15 A. No.

16 Q. Okay. Then taking those conversations as
17 a group, please tell me everything that you can
18 remember about what you and Mr. Bell discussed in
19 that second set of conversations.

20 A. Okay. We negotiated the price. And for
21 us to enter into this agreement, we had to show him
22 some commitment, which is -- it ended up to paying
23 \$1 million as a down payment. And always in these
24 conversations we also negotiated the terms of the
25 LC, the terms of the letter of credit, and the



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1 conditions that we would like to have for the ISP in
2 general, not in specific. We want all three brands,
3 and they have to be in the -- Jim asked they have to
4 be in the multi-brand environment, and that we would
5 use -- and Jim Bell suggested that we would use --
6 this quantity is so big for our area, so we were
7 discussing getting another big area. Instead of
8 only Arabic-speaking countries, maybe Turkey or
9 Switzerland or somewhere like that. And to be able
10 to dispose of these ISP --

11 Q. ISP or excess?

12 A. Sorry. Excess.

13 To use ISP to dispose of these OP
14 products.

15 Q. Okay. When you said that there was
16 discussion about the conditions for ISP, can you
17 remember anything that was discussed about what
18 you've just testified to?

19 A. No. It was just the brands that we would
20 buy in ISP. And mainly -- his main point was not to
21 have a store that could be called Gap store, so it
22 has to be always with other merchandise.

23 Q. Was there ever any understanding reached
24 about whether the ISP agreement would include any
25 territories other than the Arabic-speaking

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1 A. Yes.

2 Q. And that was \$6 million?

3 A. Yes.

4 Q. Okay. Now, at the conclusion of the last
5 of these telephone conversations that you had with
6 Mr. Bell, did you understand that there would need
7 to be a written contract executed with Gap?

8 MR. HANEY: Between which parties?

9 BY MS. DURIE:

10 Q. Between anyone in Gap.

11 A. Yes. The normal practice, yes, is to
12 have -- you know, after you discuss things verbally,
13 you agree on things verbally, to put it in writing.
14 And that's what we wanted, you know. We always had
15 this verbal agreement and verbal contract with
16 Gabana, and that's what we wanted to always
17 document. And that's how we always ask Mr. Francois
18 to negotiate the contract with Gap.

19 Q. Did Gap ever tell you that they were
20 willing to do business without a written contract?

21 A. Yes.

22 Q. Who told you that?

23 A. No. Sorry. Not that they were willing to
24 do business, but they were doing business with us
25 without a written contract.

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1 Q. When did Gap do business with you without
2 a written contract?

3 A. All through this time. I mean all the
4 relationship from the beginning to the end, it was
5 without any written contract between us and them.

6 MR. HANEY: When you say "us and them" --

7 THE WITNESS: I'm sorry. Between Roots
8 and Gap.

9 BY MS. DURIE:

10 Q. Okay. But prior to May 12th, 2003, Roots
11 did not distribute any ISP merchandise for Gap;
12 right?

13 A. Prior to --

14 Q. Prior to May 12th, 2003.

15 A. Yes.

16 Q. That's correct?

17 A. Correct.

18 Q. And prior to that time, Roots had in place
19 a written agreement with Gabana relating to the sale
20 of excess inventory; right?

21 A. Yes.

22 Q. Did you have an understanding as to
23 whether Gabana, either directly or indirectly, had a
24 written agreement with Gap relating to the sale of
25 excess inventory?

1 A. At that time, I knew that they should be
2 negotiating a contract, a written contract. So that
3 will protect us as the main beneficiary of that
4 transaction.

5 MS. DURIE: Okay. Let me have marked as
6 the next exhibit GGD_0016658 [sic] through 79.

7 (Whereupon, Exhibit 45 was marked for
8 identification.)

9 (Discussion off the record.)

10 MS. DURIE: 45?

11 DEPOSITION REPORTER: Correct.

12 MS. DURIE: I'm sorry. The exhibit should
13 go through 0016497. If you can actually hand me
14 your copy, Mr. Abu Issa. I'm going to remove the
15 stray copies.

16 MR. HANEY: 497 is the last page?

17 MS. DURIE: Correct.

18 MR. HANEY: That's the GGD number?

19 MS. DURIE: Yes.

20 BY MS. DURIE:

21 Q. Have you ever seen before what's been
22 marked as Exhibit 45?

23 A. No.

24 Q. Are you aware that Gap entered into a
25 written distributor license agreement with Solka on

1 Solka, copied to you. Do you see that?

2 A. Yes.

3 Q. Who wrote the text that appears in the
4 email?

5 A. It was Roots staff, one of the staff or
6 myself. You know, it's Roots that did that.

7 Q. Okay. You can set that aside for a
8 moment. And look in your pile of exhibits and take
9 out Exhibit 9, please.

10 Exhibit 9 is a letter dated four days
11 later from yourself to Mr. Larsen; correct?

12 A. Four days later? Yes.

13 Q. Why was it that you first sent an email
14 and then followed it up with a more formal signed
15 letter?

16 A. Maybe this could have been the other way.
17 Maybe this could have been the wording of Francois,
18 and he wanted us to -- you know, to put whatever we
19 wanted from Gap, to put it in writing in our
20 letterhead so he can convey to Gap.

21 Q. Okay.

22 A. So this is my understanding.

23 Q. Now, at the end of the letter it says, "We
24 hereby authorize you to communicate our present
25 offer to Gap Inc. and look forward to them agreeing

1 to our terms."

2 Did Roots authorize Mr. Larsen to
3 communicate its offer to Gap Inc.?

4 A. Yes.

5 Q. And was Mr. Larsen also authorized to
6 serve as the intermediary between Roots and Gap in
7 the subsequent negotiations?

8 MR. HANEY: Objection as to form.
9 Negotiations of what?

10 THE WITNESS: Exactly.

11 BY MS. DURIE:

12 Q. Of ISP distribution rights.

13 A. In this deal --

14 MR. HANEY: I didn't hear. ISP --

15 MS. DURIE: Distribution rights.

16 MR. HANEY: Objection as to form.

17 THE WITNESS: No. In this particular
18 deal, yes, he was authorized to communicate on our
19 behalf.

20 MR. HANEY: And you're pointing to the
21 document?

22 THE WITNESS: Yes. Exhibit 9.

23 BY MS. DURIE:

24 Q. And at the beginning -- at the top of the
25 document it says, "Following our various discussions

1 we herewith confirm our intention to enter into an
2 ISP program for Gap Inc. brands in the Arabic
3 speaking countries."

4 Right?

5 A. Yes.

6 Q. Now, is it your position that as of the
7 date of this letter, you already had a binding
8 contract with Gap for an ISP program for Gap Inc.
9 brands in Arabic-speaking countries?

10 A. Yes.

11 Q. If you already had a binding contract, why
12 did you need to confirm your intention to enter into
13 that program?

14 A. Because it was always communicated with
15 Gap, and they wanted a written confirmation from us
16 to buy -- to buy these quantities.

17 Q. Gap insisted that the parties enter into a
18 written contract; right?

19 A. No.

20 Q. Well, again, if you already had a binding
21 contract, why would you need to confirm your
22 intention to enter into the program?

23 A. Gap asked us to put this in writing
24 probably because financially, it was -- it had more
25 of a financial need to Jim Bell than anything else.

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1 understanding. On the second page, you see under
2 No. 2 there's a discussion of how Roots is going to
3 pay Gabana for the excess inventory.

4 A. Yes.

5 Q. Is it safe to say that as of May 12th,
6 2003, Roots had not yet opened the letter of credit
7 in favor of Gabana for the purchase of the excess
8 inventory?

9 A. Yes.

10 MS. DURIE: Okay. Let's take a short
11 break.

12 THE VIDEOGRAPHER: Off the record. The
13 time is 11:27 a.m. Here marks the end of videotape
14 No. 1 in the deposition of Ashraf Abu Issa.

15 (Off the record.)

16 THE VIDEOGRAPHER: We are back on the
17 record. The time is 11:46 a.m. Here marks the
18 beginning of videotape No. 2 in the deposition of
19 Ashraf Abu Issa.

20 BY MS. DURIE:

21 Q. Mr. Abu Issa, I'd like to direct your
22 attention to what was previously marked as
23 Exhibit 12.

24 Do you recognize the first page of
25 Exhibit 12 as an email from Mr. Larsen to yourself

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1 dated May 20th, 2003?

2 A. Yes.

3 Q. Did you receive that email?

4 A. Yes.

5 Q. And do you recognize the remainder of
6 Exhibit 12 as the attachments to that email?

7 A. Yes.

8 Q. So on May 20th, 2003, Mr. Larsen sent you
9 a draft of a new excess inventory contract to be
10 entered into between Gabana and Roots; is that
11 right?

12 A. Yes.

13 Q. And he also sent you a copy of the excess
14 inventory agreement that Gap had entered into with
15 Gabana; right?

16 A. Yes.

17 Q. And Mr. Larsen told you that he was
18 sending you the Gap/Gabana contract for comparison;
19 right?

20 A. Uh-huh.

21 Q. Did you have an understanding as to why
22 Mr. Larsen was sending you the Gap/Gabana contract
23 for comparison?

24 A. Yes.

25 Q. What was your understanding?

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1 A. Because when he told me about the terms in
2 the -- the terms that this written contract had, I
3 was not happy with them because that's not what we
4 were looking for and that's not what we had in
5 contract with Gap.

6 But, you know, because of the speed that
7 they wanted this to happen -- so they said that we
8 have to sign this quickly, and this is a standard
9 contract from our legal department. This is what
10 Jim told me. He said that this is a standard
11 contract from our legal department and nothing could
12 be changed now. Okay. But this is just to
13 execute -- you know, this is just to speed up the
14 process and to -- for you to open this LC, and later
15 on we can maybe improve some of those terms. So
16 this is, like, a temporary contract, and we can
17 always go back to change some of those terms.

18 I did not like the contract, so I did not
19 sign back one to Gabana. I said, "I'll wait until
20 we get the proper, not temporary contract, and then
21 do it."

22 Q. Okay. Did you ask to see the written
23 contract that had been entered into between Gap and
24 Gabana before Roots opened the letter of credit?

25 A. Yes.

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1 Q. To whom did you make that request?

2 A. To both Jim and Francois.

3 Q. Okay. Were you provided a copy of the
4 written contract?

5 MR. HANEY: As what point in time?

6 BY MS. DURIE:

7 Q. When you asked for it.

8 A. Not immediately. It took some time for
9 them to provide it for me. And right after -- it
10 was not immediately shown, I remember. They were
11 trying maybe to implement some of the terms that I
12 wanted to have, I insisted on.

13 But, finally, they said, "Okay. Let's
14 sign this one first, some written contract, and then
15 we will improve it. Once people know you're here in
16 San Francisco when you come here for the buying,
17 then maybe they can trust you more and know you
18 more, and then maybe we can improve some of those
19 terms."

20 He was always referring to the legal
21 department as someone who is not used to this kind
22 of agreements because Gap owned and run all their
23 stores. And because they are not used to
24 distributors and resellers, they had a standard one
25 for us, and then that we could negotiate another one

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1 when we go to San Francisco.

2 Q. The "him" that you were referring to in
3 that sentence was Jim Bell?

4 A. Yes.

5 Q. And the standard contract that you were
6 referring to was the written contract that got
7 entered into between Gap and Gabana; right?

8 A. Yes.

9 Q. Let me direct your attention to
10 Exhibit 13.

11 A. Yes.

12 Q. Is Exhibit 13 an email that was sent to
13 you from Mr. Larsen also on May 20th, 2003?

14 A. I don't remember the first part, but I've
15 seen the second part. This timetable is familiar to
16 me.

17 Q. Right. The document is a little bit
18 confusing because the first few -- I'm producing it
19 to you in the order in which it was produced.

20 A. Okay.

21 Q. The first few pages of tables you can skip
22 over.

23 And you see then after the exhibits,
24 there's an International Sales Program ISP
25 Distributor License Agreement?

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1 A. Yes.

2 Q. That was a draft of an ISP license
3 agreement between Gabana and Roots that Mr. Larsen
4 sent to you; right?

5 A. Uh-huh.

6 Q. This was the agreement that Mr. Larsen was
7 proposing should be entered into between Roots and
8 Gabana?

9 A. Yes.

10 Q. And one of the recitals under B -- this is
11 on page -- the page Bates stamped 51095 in the lower
12 right-hand corner -- it says, "Gabana manages the
13 right granted by Gap Inc. (hereinafter referred to
14 as the manufacturer) to sell and/or distribute ISP
15 merchandise labelled; 'Gap, Banana Republic and Old
16 Navy,' hereafter referred to as the Products and as
17 defined in exhibit E, in certain territories."

18 Did you ever take exception to that
19 recital?

20 MR. HANEY: Objection as to form and vague
21 as to time frame.

22 THE WITNESS: I don't understand this.
23 This page here (indicating)?

24 BY MS. DURIE:

25 Q. Yes.

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1 required the payment of a down payment on ISP
2 orders?

3 A. No.

4 Q. At this time, you had a copy of that
5 contract in your possession; right?

6 A. Yes.

7 Q. When you received the copy of the
8 Gap/Gabana agreement in May of 2003, did you read
9 it?

10 A. No.

11 Q. Why not?

12 A. Because it was told to me that it was a
13 standard contract, and it was not according to what
14 he wanted.

15 Q. So when Mr. Larsen forwarded you a copy of
16 the contract that Gabana had entered into with Gap,
17 he told you that it didn't contain all the
18 provisions that you had hoped for; is that right?

19 A. Yes.

20 MR. HANEY: Objection as to foundation.

21 THE WITNESS: Yes.

22 BY MS. DURIE:

23 Q. And he also told you that it was a
24 standard form contract that Gap's legal department
25 had required be executed in that form; is that

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1 right?

2 A. Yes.

3 MS. DURIE: Let me have marked as the next
4 exhibit RRMG00010662.

5 (Whereupon, Exhibit 55 was marked for
6 identification.)

7 DEPOSITION REPORTER: This is No. 55.

8 BY MS. DURIE:

9 Q. Do you recognize what's been marked as
10 Exhibit 55 as an email from Mr. Ehlen to Mr. Beheiry
11 dated May 12th, 2004?

12 A. Yes.

13 Q. Below there is handwritten text on the
14 document. Do you recognize the handwriting?

15 A. No.

16 Q. Do you recognize Mr. Beheiry's
17 handwriting?

18 A. No.

19 Q. You see in the email from Mr. Ehlen a
20 couple of lines up from the bottom it says,
21 "Regardless, no one has the exclusive rights to
22 distribute Gap Inc. products."

23 Do you see that?

24 A. Yes. Yes.

25 Q. Did Mr. Beheiry tell you that Mr. Ehlen

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1 that the countries needed to be approved under the
2 distributor contract with Gabana?

3 A. Yes.

4 Q. And how so?

5 A. In all the visits we had to Gap here, I
6 was with Naser and Sheikh Faisal. I was discussing
7 opening new countries and always complaining about
8 how slow it is.

9 Q. Okay. Understood.

10 But did anyone from Roots respond to
11 Mr. Bell that the countries should be approved not
12 under the distributor contract with Gabana but under
13 a different contract with Roots?

14 MR. HANEY: Objection. Asked and
15 answered.

16 THE WITNESS: I think here he's referring
17 to the countries listed under Gabana. Right? He's
18 talking about the countries which are listed under
19 the distribution. So it's the names of these
20 countries that are here but that needs to be opened.
21 It's not referring to the contract itself. It's
22 referring to the names in the contract.

23 BY MS. DURIE:

24 Q. Okay. So the distributor contract between
25 Gap and Gabana included a list of countries in which

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1 goods could be sold; right?

2 A. Yes.

3 Q. And Roots wanted to be able to sell
4 product in additional countries; right?

5 A. Yes.

6 Q. And Mr. Bell responded that he could work
7 "to approve these countries under our Distributor
8 Contract with Gabana. However, it is necessary that
9 we follow the process within that contract."

10 Did anyone from Roots ask Mr. Bell why
11 they couldn't be approved under a different
12 contractual arrangement that existed directly with
13 Roots?

14 MR. HANEY: Objection. Asked and
15 answered.

16 THE WITNESS: No.

17 BY MS. DURIE:

18 Q. Why not?

19 A. We always ask -- I mean not in that
20 context. We ask why -- I mean we always ask them to
21 approve new countries. Okay. But nothing referring
22 to -- because we know that we have a contract with
23 Gap, and that contract is very clear that if you buy
24 this merchandise, you will get these countries.
25 Okay. And it was just a matter of details, a matter

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1 of just approving the retailers in that agreement.

2 Q. When you say "you will get these
3 countries," you're referring to the Arabic-speaking
4 countries?

5 A. Yes.

6 Q. Okay.

7 A. And some additional ones upon request.

8 Q. When you say "additional ones upon
9 request," what do you mean?

10 A. Like, if we find a good opportunity
11 somewhere in the country other than Arabic-speaking
12 countries, we'll have to propose it to Gap.

13 Q. Okay. Did Gap have to accept that
14 proposal?

15 A. No.

16 Q. Now, here again, though, did you have an
17 understanding as to why Mr. Bell was referring at
18 all to the distributor contract with Gabana?

19 MR. HANEY: Objection. Lacks foundation.

20 THE WITNESS: Yes. Because it listed the
21 Arabic-speaking countries.

22 BY MS. DURIE:

23 Q. And the proposal that Roots was making was
24 that that contract should be amended to add these
25 additional countries in which it wanted to sell

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1 goods; right?

2 MR. HANEY: Objection. Lacks foundation.
3 Misstates the document.

4 THE WITNESS: Yes.

5 MS. DURIE: Let me have marked as the next
6 exhibit GAB_001337.

7 (Whereupon, Exhibit 57 was marked for
8 identification.)

9 DEPOSITION REPORTER: This is No. 57.

10 THE WITNESS: Okay.

11 BY MS. DURIE:

12 Q. Did you participate in discussions in the
13 November 2003 time frame about missing merchandise
14 in the Dubai inventory?

15 A. I don't remember particularly at this
16 time, but we always filed complaints regarding the
17 missing inventory, the missing merchandise.

18 Q. And did Mr. Larsen communicate with Gap on
19 behalf of Roots regarding that missing inventory?

20 A. Yes.

21 Q. Do you recognize the email that's been
22 marked as Exhibit 57?

23 A. I see it now, but I never saw it before.

24 Q. Okay. In this email Mr. Larsen says to
25 Mr. Bell, "It being understood by Solka, Roots and

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1 completed; I have already passed it to Gabana to
2 seek Gap's approval according to the proper
3 procedure."

4 The business plan being discussed was a
5 business plan for Lebanon; correct?

6 A. Yes.

7 Q. And Roots had completed a business plan
8 regarding the possibility of selling product to
9 Lebanon; right?

10 A. Yes.

11 Q. And when that business plan was completed,
12 Roots sent the business plan to Gabana; right?

13 A. Yes.

14 Q. And the intent was that Gabana would then
15 send the business plan on to Gap in order to seek
16 approval with respect to selling goods in Lebanon;
17 right?

18 A. Yes.

19 Q. And Roots sent the business plan to Gabana
20 rather than sending it directly to Gap because that
21 was part of the proper procedure; right?

22 MR. HANEY: Objection. Vague. Lack of
23 foundation.

24 THE WITNESS: It was the procedure that
25 Gap asked for.

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1 A. No.

2 MS. DURIE: Let me have marked as the next
3 exhibit RRMG00052007 through 15.

4 (Whereupon, Exhibit 62 was marked for
5 identification.)

6 DEPOSITION REPORTER: This is No. 62.

7 THE WITNESS: Yes.

8 BY MS. DURIE:

9 Q. Do you recognize what's been marked as
10 Exhibit 62?

11 A. Yes.

12 Q. Have you seen it before?

13 A. Yes.

14 Q. When did you see it for the first time?

15 A. When it was sent to us. I'm not sure when
16 the date is.

17 Q. Do you recognize the handwriting that
18 appears on Exhibit 62?

19 A. No.

20 Q. No?

21 A. No.

22 Q. Was Exhibit 62 sent by Gabana to Roots?

23 A. Yes.

24 Q. Who from Roots participated in the
25 negotiations relating to Exhibit 62?

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1 A. Naser Beheiry.

2 Q. Anyone else?

3 A. Myself also. He was asking me about
4 certain issues, and I would answer him.

5 Q. Do you recognize Mr. Beheiry's
6 handwriting?

7 A. No. But this could have been very well
8 his writing.

9 Q. It could very well be his writing?

10 A. Yeah.

11 Q. If you take a look at the page of the
12 document that has No. 4 on the bottom, the fourth
13 page, Article 9, it says in the typewritten text,
14 "Either directly or indirectly, work and/or try to
15 work with any company that is a competitor of Gabana
16 or any company affiliated to Gabana." And next to
17 that you see the handwritten notation, "No, this is
18 not fair."

19 A. Uh-huh.

20 MR. HANEY: You should probably give the
21 context. That's a prohibition in the proposed
22 agreement. I don't think that's clear from the
23 record.

24 MS. DURIE: Fair enough. I'll withdraw
25 the question.

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1 proposal?

2 MR. HANEY: Objection. Lacks foundation.

3 THE WITNESS: I want to differentiate here
4 between the written agreement and the oral
5 agreement. Okay. The written agreement -- the oral
6 agreement was directly between Gap and Roots, and
7 it's always very clear. If you buy this 1.7 million
8 pieces, you get all Arabic-speaking countries.

9 Now, they wanted to have this in writing,
10 okay, and they wanted to do it through Gabana. Gap
11 wanted to do it through Gabana. They wanted to do
12 it through a European entity instead of going
13 directly to the Middle East.

14 Now, some of these could have been legally
15 okay because this is the way Gap wanted it. Okay.
16 But from a business point of view, we were always
17 Gap and Roots, and Gabana was the messenger.

18 BY MS. DURIE:

19 Q. Did anyone from Roots ever propose any
20 changes to the language in the second and third
21 "whereas" clauses?

22 MR. HANEY: Objection. Lacks foundation.

23 In this agreement, you're asking?

24 MS. DURIE: Yes.

25 THE WITNESS: I'm not aware of any. I

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1 THE WITNESS: No.

2 BY MS. DURIE:

3 Q. If you turn to the next page, at the
4 bottom it says, "Switzerland and Qatar situation."

5 Do you know what that's a reference to?

6 A. No.

7 MS. DURIE: Bob, this document was
8 produced to us yesterday. It is difficult to read.
9 I would ask that the original be made available for
10 inspection when we're in Dubai for the depositions
11 so that we can use the original with witnesses.

12 MR. HANEY: Okay. Would you mind having
13 somebody just send me an email to that effect or to
14 Brad to remind me. Thank you.

15 MS. DURIE: Let me have marked as the next
16 exhibit ABU ISSA 1 through 12.

17 (Whereupon, Exhibit 64 was marked for
18 identification.)

19 BY MS. DURIE:

20 Q. Mr. Abu Issa, Exhibit 64 is the documents
21 that you've personally produced in connection with
22 this deposition; is that right?

23 A. Yes.

24 Q. What is the first page?

25 A. It's a letter from the bank stating the

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1 conditions of the LC -- or some of the conditions.

2 Q. This is a letter from the bank relating to
3 a letter of credit from Roots to Gabana --

4 A. Yes.

5 Q. -- correct?

6 What is the date of this letter?

7 A. 18 June.

8 Q. 2003?

9 A. Yes.

10 Q. Was this the second -- did this letter of
11 credit relate to the purchase of the excess
12 inventory?

13 A. Yes.

14 Q. Was this the first letter of credit that
15 was opened in connection with the purchase of the
16 excess inventory?

17 A. Yes.

18 Q. What was the amount of this letter of
19 credit?

20 A. \$5 million.

21 Q. At the time that this letter of credit was
22 opened, Roots already had in its possession the
23 contracts that had been entered into between Gap and
24 Gabana; correct?

25 A. Yes.

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1 you think that Roots had the right to decide that it
2 did not want to buy the 1.7 million units of excess
3 inventory?

4 MR. HANEY: Can you repeat the question,
5 please.

6 THE WITNESS: Can you repeat the question
7 again.

8 BY MS. DURIE:

9 Q. Sure. I'll ask the question again. After
10 you had that series of telephone conversations with
11 Mr. Bell and before May 12th of 2003, did you think
12 that Roots had the right to decide that it did not
13 want to purchase the 1.7 million units of excess
14 inventory?

15 A. Yes.

16 MS. DURIE: Okay. Let me have marked as
17 the next exhibit RRMG00010946 through 59.

18 (Whereupon, Exhibit 68 was marked for
19 identification.)

20 DEPOSITION REPORTER: This is 68.

21 BY MS. DURIE:

22 Q. Okay. Mr. Abu Issa, I've handed you
23 what's been marked as 68. Do you recognize the top
24 of the first page as an email from Naser Beheiry to
25 a Sanaa Sobh --

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1 A. Yes.

2 Q. -- dated December 7th, 2004?

3 A. Yes.

4 Q. Who is Mr. Sobh?

5 A. She is a miss.

6 Q. Miss. Who is Miss Sobh?

7 A. She is my secretary.

8 Q. Okay. So Mr. Beheiry was attempting to
9 forward this document on to you; is that right?

10 A. Yes.

11 Q. Below that there is an email from
12 Mr. Larsen to Mr. Beheiry dated December 7th, 2004;
13 right?

14 A. Yes.

15 Q. And below that on the second page, "there
16 is an email from Mr. Beheiry to Mr. Larsen dated
17 December 6th, 2004. Do you see that? It's on the
18 second page.

19 A. Yeah. Okay.

20 Q. Okay. And then if you flip two pages
21 forward, you will see that there's a document
22 called "Sub-Distribution Agreement."

23 A. Yes.

24 Q. Now, if you look through that document, do
25 you see there is some text that has been stricken

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1 MS. DURIE: You know what? I don't have
2 any questions about this. I don't have any
3 questions about that. You can set it aside.

4 DEPOSITION REPORTER: Do you want to
5 withdraw the exhibit?

6 MS. DURIE: Oh, sure. Why don't I?

7 MR. HANEY: No 69?

8 MS. DURIE: Yeah. Get rid of 69.

9 BY MS. DURIE:

10 Q. The reason I'm getting rid of it,
11 Mr. Abu Issa, is because I realize that it has all
12 the same information that's already in --

13 A. Okay.

14 Q. -- 68.

15 MS. DURIE: Let me have marked as
16 Exhibit 69 GAB_011893 through 896.

17 (Whereupon, Exhibit 69 was marked for
18 identification.)

19 THE WITNESS: Yes.

20 BY MS. DURIE:

21 Q. Do you recognize what's been marked as
22 Exhibit 69?

23 A. Yes.

24 Q. This is a memorandum of understanding that
25 was entered into between Roots and A.A. Turki

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1 Corporation?

2 A. Yes.

3 Q. And it was a memorandum of understanding
4 regarding the right to distribute Gap ISP product;
5 correct?

6 A. Yes.

7 Q. Did Roots provide a copy of this
8 memorandum of understanding to Gap?

9 A. I don't think so.

10 Q. Why not?

11 A. Because it's only a memorandum of
12 understanding.

13 Q. Was there any reason for not providing a
14 copy of this document to Gap other than that it was
15 only a memorandum of understanding?

16 A. Maybe some -- I don't know. No. I mean I
17 don't know if it was even in the first place, but
18 normally memorandum of understanding are just
19 preliminary discussions and put into points and then
20 discussed or confirmed later, depending on what's in
21 there.

22 Q. If you turn to the last page of
23 Exhibit 69, you see your signature?

24 A. Uh-huh.

25 Q. You read this document before you signed

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1 it; right?

2 A. Yes.

3 Q. If you turn to the second page of the
4 exhibit, the first page of the memorandum of
5 understanding --

6 A. Yes.

7 Q. -- you see about a third of the way down
8 it says, "Whereas, Roots manages rights granted to
9 Gabana Gulf Distribution Limited with its principal
10 place of business at" -- an address in London -- "by
11 Gap Inc. to sell and/or distribute ISP merchandise."

12 See where it says that?

13 A. Yes.

14 Q. Roots wrote that language; right?

15 A. Yes.

16 Q. And that was true?

17 A. Yes.

18 Q. And the rights granted to Gabana Gulf
19 Distribution by Gap were reflected in the written
20 contract that was signed between Gap and Gabana;
21 right?

22 A. Not necessarily only that but also the
23 other agreements we had.

24 Q. Well, is it now your testimony that Gap
25 and Gabana also had some separate oral agreement?

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1 we had to implement them. But the major points were
2 still in place. So there were, like, little things
3 that come up every once in a while and we have to
4 change accordingly.

5 Q. Can you remember any fine tuning of the
6 oral agreement other than the restrictions on
7 advertising?

8 A. Yes. For example, after making the first
9 order of ISP, they said that you cannot -- we
10 ordered for a few countries, for more than one
11 country, and, like, we included many other
12 countries. And then they said it's better if we
13 visit the stores before you can sell to them. This
14 was not agreed in the beginning, but we said, "Okay.
15 You can visit them."

16 Another thing is that -- yes. They said,
17 for example, cancellation of products. If you place
18 an order, you can only add or subtract 10 percent of
19 that order. These are the fine tuning of things
20 that I meant.

21 Q. Anything else?

22 A. Not that -- I mean I'm sure there are
23 others, but this is what I remember now.

24 Q. And other than the alleged oral agreement
25 whereby Roots would obtain ISP distribution rights

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1 in exchange for the purchase of the 1.7 million
2 units of excess inventory fine tuned as you have
3 just described, did Gap and Roots enter into any
4 other oral contract?

5 A. No.

6 Q. You should have in front of you what's
7 been marked as Exhibit 3.

8 MS. DURIE: Where did it go? I had it.
9 It's right here, but I'm wondering if that's -- is
10 that the copy I had for the witness?

11 BY MS. DURIE:

12 Q. I'm showing you, Mr. Abu Issa, what's been
13 marked as Exhibit 3, which is a copy of Roots'
14 complaint for breach of contract, et cetera, against
15 Gap. And if you turn to the last page of the
16 document, you'll see that it's signed by the law
17 firm of Covington & Burling.

18 A. Uh-huh.

19 Q. That's Roots' lawyers; right?

20 A. Yes.

21 Q. I'd like you to turn to the second page of
22 the document, paragraph 6.

23 A. Yes.

24 Q. Read that to yourself.

25 A. Yes.

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1 answered.

2 THE WITNESS: Again, it's a correct
3 statement from Gap's point of view, not from ours.

4 BY MS. DURIE:

5 Q. Was Gabana Gulf Distribution Limited
6 Roots' immediate licensor?

7 A. Yeah. On paper and legally, yes.

8 Q. Can you turn to paragraph 24 on page 4.

9 A. Paragraph --

10 Q. Paragraph 24 on page 4.

11 A. Yes.

12 Q. You see it says, "During the subsequent
13 negotiations, Roots executives, particularly
14 Abu Issa, had direct contact with Bell on numerous
15 occasions. Larsen also negotiated with Bell on
16 behalf of Gabana and Roots."

17 True statement?

18 A. Yes.

19 Q. Turn to the next page, paragraph 29. It
20 says, "Bell further represented and confirmed that
21 Roots would have free rein to sell OP and ISP
22 merchandise in all of the countries that were
23 expressly identified in the written agreements."

24 What written agreements does that refer
25 to?

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1 statements to Roots that were fraudulent?

2 A. What is "fraudulent"?

3 Q. That were a fraud.

4 MR. HANEY: Objection. Calls for a legal
5 conclusion.

6 THE WITNESS: We felt that -- okay.
7 Defining fraud is -- maybe it's a perception between
8 one person and another.

9 But when somebody promises you something
10 and they don't do it, or when they say that you have
11 all these ISP countries, and then from the first
12 order it's been cancelled, you know, I think it
13 was -- the intention was just to get rid of these
14 1.7 million pieces, and then that's all that they
15 were worried about at that time. And maybe they
16 could have said anything just to get rid of them and
17 leave us with the problem until today.

18 BY MS. DURIE:

19 Q. Did anyone from Gap ever lie to anyone
20 from Roots?

21 MR. HANEY: Objection. Asked and
22 answered.

23 THE WITNESS: I don't know if not telling
24 is lying, but when he --

25 BY MS. DURIE:

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1 Q. Let me split it up. Did anyone --

2 MR. HANEY: Let him finish his answer.

3 THE WITNESS: Not telling is lying because
4 we found out later from some of our clients that the
5 whole point of selling us OP and ISP was to protect
6 the brand name and the intellectual property of
7 Gap Inc. And this was never conveyed to us. And we
8 feel that we have been not treated fairly or there
9 was another intention of doing this business with us
10 other than the one that we originally entered into.

11 MR. HANEY: Let him finish.

12 THE WITNESS: So, you know, they said that
13 in order for Gap to maintain its registration of
14 trademarks, it has to be used in these countries.
15 And they have told this to two of our clients,
16 namely, Red Square in Saudi Arabia and A.A. Turki.

17 And when we asked about it, they said,
18 "No, no, there is nothing like that."

19 But we were confirmed again by these two
20 clients that this had been told to them.

21 BY MS. DURIE:

22 Q. Who told you from Gap --

23 MR. HANEY: I don't think he finished --

24 BY MS. DURIE:

25 Q. Are you done?

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1 multinational companies the size of Gap, smaller and
2 bigger. Okay. So I've always had no issues
3 whatsoever. I never had a court case against any of
4 them. And my family has been dealing with these
5 companies for the past 50 years. And always when we
6 get promises from big companies like this, it's
7 always fulfilled, and if they're not fulfilled, then
8 they are compensated somehow.

9 And, accordingly, I just worked and
10 worked, and I really put aside so many projects,
11 okay, just to make sure that we do the Gap thing,
12 the Gap project in a good and organized manner.

13 BY MS. DURIE:

14 Q. But my question is: The various things
15 that you identified, the trips to locate retailers,
16 isn't that all work that Roots was doing as part of
17 the contractual relationship among Gap, Gabana and
18 Roots?

19 A. Yes.

20 Q. Okay.

21 A. Sorry. Again, you said Gap, Gabana and
22 Roots. It's Gap/Roots.

23 Q. With Gabana as an intermediary?

24 A. Yes.

25 Q. Okay. Did Roots build special stores to

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1 A. Not that I'm aware of.

2 Q. Has Gap asked Roots to provide any
3 services after June 25th, 2005?

4 A. No.

5 MS. DURIE: Okay. I don't have any
6 further questions.

7 MR. HANEY: Let's take a two-minute break,
8 and then I may have one or two questions.

9 MS. DURIE: Okay.

10 THE VIDEOGRAPHER: Off the record. The
11 time is 4:39 p.m.

12 (Off the record.)

13 THE VIDEOGRAPHER: We are back on the
14 record. The time is 4:48 p.m.

15 MR. HANEY: Mr. Abu Issa, I just have a
16 few follow-up questions.

17

18 EXAMINATION

19 BY MR. HANEY:

20 Q. Did you have meetings in San Francisco
21 with Gap in June of 2003?

22 A. Yes.

23 Q. And at those meetings, did Gap
24 representatives make any statements to you about
25 putting together an ISP network?

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1 MS. DURIE: Objection. Leading.

2 THE WITNESS: Yes.

3 BY MR. HANEY:

4 Q. Who was that?

5 A. It was the whole team, the ISP team, Jon
6 Ellen. Also Jim Bell was present, Andy and a young
7 lady called Marcie. I forget her last name.

8 Q. And what did they say on that topic?

9 A. They said that in order for us to be able
10 to -- in order for us to be sufficient -- efficient,
11 we have to build -- we have to have a big warehouse,
12 plus we have to have more specialized people to be
13 able to handle the logistics of this matter, and
14 please visit more countries to build this network so
15 it will be worthwhile doing the business.

16 Q. And did Roots do anything in reliance on
17 that?

18 A. Yes.

19 Q. What was that?

20 A. We visited many countries, and we almost
21 made -- we made permanent agreements with a lot of
22 retailers, and also we've rented a big warehouse in
23 Jebel Ali and we've hired many, many staff.

24 Q. Now, was one of the countries you visited
25 Lebanon?

CERTIFICATE OF REPORTER

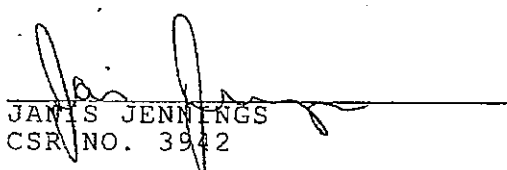
I, JANIS L. JENNINGS, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: June 18th, 2008


JANIS JENNINGS
CSR NO. 3942